



CATHOLIC SOCIAL TEACHING AND THE RIGHT TO WORK¹

The proposition of this paper is that Catholic teaching on social justice in the workplace provides strong support for the Right to Work principle.

In the United States, a labor union recognized or certified as the collective bargaining representative of a bargaining unit is clothed, by operation of law, with the status of “exclusive representative” of the unit. In essence, the Federal Government deprives the individual employee of the natural right to bargain with his employer and transfers that individual right to the government-sanctioned “exclusive representative,” i.e., the labor union.

Thereafter, if the employer bargains with an individual employee, the employer commits an unfair labor practice (ULP), the union can file an unfair labor practice charge with the National Labor Relations Board (NLRB), and the NLRB will order the employer to cease and desist from individual bargaining. In addition, the employee’s wages, hours, and working conditions are determined solely by reference to the collective bargaining agreement negotiated and agreed to between the employer and the union.

Right to Work laws, state laws which are preserved by § 14(b) of the National Labor Relations Act, 29 U.S.C. § 164(b), protect the right of the individual employee to decide for himself whether to join or support a labor organization. This does not eliminate the deprivation of the individual’s natural right to bargain with respect to his own employment, but it does ameliorate a lot of the inimical effects of governmentally-imposed “exclusive representation.”

Right to Work laws preserve the individual’s natural and constitutional right to determine for himself whether to associate with an organization. This can be extremely important, not only from a personal freedom viewpoint, but also from a moral and religious viewpoint.

Consider, for example, whether employees should be forced to associate with a union that has been found to be essentially a racketeering enterprise. In a report as of December 31, 1985, the President’s Commission on Organized Crime stated, “the International Longshoremen’s Association, the Hotel Employees and Restaurant

¹ Authored by Richard J. Clair, Corporate Counsel, National Right to Work Legal Defense and Education Foundation, Inc. Mr. Clair holds a B.A. degree from The Catholic University of America and a J.D. degree from Loyola University School of Law, New Orleans, Louisiana. The views expressed here do not necessarily reflect those of the Foundation. © National Right to Work Legal Defense and Education Foundation, Inc. 2000.

Employees International Union, the International Brotherhood of Teamsters, and the Laborers' International Union of North America . . . have each been found by the Federal Bureau of Investigation to be 'substantially influenced and/or controlled by organized crime.'”

Consider, also, whether college age women should have to obtain job referrals through a union hiring hall, which controls all the waitress jobs in their area, where the union's business agent, who handles referrals, agrees to place these women on one condition, i.e., that they also agree to engage in acts of prostitution, bestiality, public sexual displays, and similar degrading acts. *Seritis v. Hotel and Restaurant Employees and Bartenders Union, Local 28*, 213 Cal. Rptr. 588, 119 LRRM 2497 (1985). Should employees be forced to join and support such a labor union?

Consider, finally, whether employees should be forced to associate with a union whose members used arson in a labor dispute and started a fire that killed 96 people at the Dupont Plaza Hotel in San Juan, Puerto Rico, on December 31, 1986. *The Washington Times* (1/30/87). Many unions use violence as an organizing or collective bargaining weapon. See, Armand J. Thieblot, Jr. and Thomas R. Haggard, *Union Violence: The Record and the Response by Courts, Legislatures, and the NLRB*, Labor Relations and Public Policy Series No. 25, Univ. of Pennsylvania, The Wharton School (1983). See also, *Hinote v. Local 4-23, Oil, Chemical & Atomic Workers Union*, 777 S.W.2d 134 (Tex. App.), error denied, Tex. S. Ct. (1989) (union, union officials, and union members found liable for ambushing and shooting of employee as he left home to work during a strike).

In those states that do not have Right to Work laws, or for workers governed by the Railway Labor Act (RLA), which preempts state Right to Work laws, moral-minded workers must rely on their right to object to paying for any union expenses other than those spent by the “exclusive representative” on collective bargaining, contract administration, and grievance adjustment, what the courts call “financial core” or *Beck* rights, *Communications Workers of America v. Beck*, 108 S. Ct. 2641 (1988), and on their right not to be actual members of the union, *Pattern Makers' League of North America v. NLRB*, 105 S. Ct. 3064 (1985).

But, this places a tremendous burden on the backs of workers. As Justice Hugo Black, in *International Association of Machinists v. Street*, 367 U.S. 740, at 795 (1961), said of *Beck*-type solutions to compulsory union dues claims:

It may be that courts and lawyers with sufficient skill in accounting, algebra, geometry, trigonometry and calculus will be able to extract the proper microscopic answer from the voluminous and complex accounting records of the local, national, and international unions involved. It seems to me, however, that while the Court's remedy may prove very lucrative to special

masters, accountants and lawyers, this formula, with its attendant trial burdens, promises little hope for financial recompense to the individual workers whose First Amendment freedoms have been flagrantly violated.

Similarly, Title VII of the Civil Rights Laws provides some protection to employees with religious objections to associating with a labor union when a state does not have a Right to Work law, thus also protecting the individual's moral independence.

Consider, for example, the case of Robert Roesser, a Catholic professor who used to teach at the University of Detroit, a Jesuit-run institution (the "University"). (Michigan does not have a Right to Work law.)

The local affiliate of the National Education Association (NEA) labor union was the exclusive representative of the professors at the University. The NEA is a vertically integrated union, meaning that, when one joins the local, he also joins the state and national unions, and he must pay dues to all three levels of the union.² Similarly, agency fees (i.e., fees of nonmembers) go to all three levels of the union.

The NEA's collective bargaining agreement with the University contained a clause that forced the professors, as a condition of employment, to join and pay dues to the union or pay compulsory non-member "agency fees," the type of clause that unions call "union security." Thus, Roesser, as a condition of teaching at the University, had to pay.

Eventually, Roesser discovered that the NEA union was heavily involved in promoting abortion rights. When he thought about his dues money going to an organization with such an immoral agenda and compared it with the "Vatican Declaration on Abortion," which says that it is a serious sin to "take part in a propaganda campaign

² At one time, IRS classified the NEA as a professional association, but many years ago, IRS reclassified it as a labor union, which is its true nature.

in favor of such a law,”³ as well as “Christ Speaks Through His Church About Abortion”⁴ and the 1895 encyclical of Pope Leo XIII on Catholicism in the United States titled, “Longinqua,”⁵ he came to the conclusion that, in good conscience, he could no longer

³ The “Vatican Declaration on Abortion” more fully states, *inter alia*: “[T]he Second Vatican Council . . . has most severely condemned abortion: ‘Life must be safeguarded with extreme care from conception; abortion and infanticide are abominable crimes.’” (¶ 7, quoting from *Gaudium et Spes*.) “The first right of the human person is his life. He has other goods and some are more precious, but this one is fundamental – the condition of all the others. Hence it must be protected above all others. . . .” (¶ 11.) It must in any case be clearly understood that a Christian can never conform to a law which is in itself immoral, and such is the case of a law which would admit in principle the licitness of abortion. Nor can a Christian take part in a propaganda campaign in favor of such a law, or vote for it. . . .” (¶ 22.)

⁴ In “Christ Speaks Through His Church About Abortion,” Rev. Arthur B. Klyber, C.Ss.R., a Redemptorist priest, explains:

The Church, established by Jesus the Messiah, has always taught that babies in the womb are human beings like ourselves. It has always insisted that the killing of such babes is the same as killing an adult (or even worse). . . .

Perhaps you have never heard that Catholics who allow or perform an abortion, or even help in the completion of an abortion are at once excommunicated from the Church. Excommunication means that such Catholics are expelled from the Church Community (membership) and are deprived of all Its Blessings and Privileges. . . . Moreover, they are destined to lose heaven forever unless they sincerely repent of their sin This terrible excommunication can be lifted only by the local Bishop, or by priests who may have been given permission to release it.”

⁵ Longinqua dealt with a number of issues with respect to the developing Catholic Church community in the United States. It had this to say about societies of working men and women:

16. Now, with regard to entering societies, extreme care should be taken not to be ensnared by error. And We wish to be understood as referring in a special manner to the working classes, who assuredly have the right to unite in associations for the promotion of their interests But it is very important to take heed with whom they are to associate, lest whilst seeking aid for the improvement of their condition they may be imperilling far weightier interests. The most effectual precaution against this peril is to determine with themselves at no time or in any matter to be parties to the violation of justice. . . .

17. Nay, rather, unless forced by necessity to do otherwise, Catholics ought to prefer to associate with Catholics, a course which will be very conducive to the safeguarding of their faith. . . . Let them, however, never allow this to escape their memory: that whilst it is proper and desirable

financially support the NEA and the MEA, the state and national levels that were involved in promoting abortion rights.

When Roesser objected and asked the University and the union to accommodate his religious beliefs by allowing him to pay his fees to a charity instead of to the union, a standard Title VII remedy for religious objectors, neither the union nor the University accommodated him. Instead, the union demanded that he be fired, and the Jesuit University did just that.

Roesser had to turn to a secular organization, the National Right to Work Legal Defense Foundation, for assistance. With the help of a Foundation-provided attorney, Roesser filed charges with the EEOC, which eventually led to the EEOC filing a lawsuit on Roesser's behalf to protect his Title VII right to religious accommodation. With the Foundation attorney's help, Roesser intervened, as was his right, and eventually he prevailed in the courts. *Roesser v. University of Detroit & University of Detroit Professors Association/MEA/NEA*, 904 F.2d 331 (6th Cir. 1990).⁶

The question of Right to Work laws and Catholic teaching has been exhaustively studied by Edward B. McLean in his seminal book, *Roman Catholicism and the Right to Work*, University Press of America (1985).

to assert and secure the rights of the many, yet this is not to be done by a violation of duty; and that these are very important duties: not to touch what belongs to another; to allow every one to be free in the management of his own affairs; not to hinder any one to dispose of his services when he please and where he please. The scenes of violence and riot which you witnessed last year in your own country sufficiently admonish you that America too is threatened with the audacity and ferocity of the enemies of public order. The state of the times, therefore, bids Catholics to labor for the tranquillity of the commonwealth, and for this purpose to obey the laws, abhor violence, and seek no more than equity or justice permit.

⁶ The Democratic party's extreme and constant support for abortion rights may be explained, in part, by the NEA union's involvement in the party. For example, 350 NEA members were delegates and alternates to the August 17, 2000, Democratic convention in Los Angeles. (Source: www.nea.org/election00, 10/6/00.) Also, resolutions adopted by the NEA at its annual conventions constantly call for unlimited abortion through code words such as "reproductive rights." For example, the 1999-2000 NEA Handbook states, "The National Education Association supports family planning, including the right to reproductive freedom. The Association urges the government to give high priority to making available all methods of family planning to women and men unable to take advantage of private facilities. The Association also urges the implementation of community-operated, school-based family planning clinics that will provide intensive counseling by trained personnel. (¶ I-12.) The NEA's "Legislative Program," set forth in the same Handbook, includes, "reproductive freedom without governmental intervention" under "III. Constitutional, Civil, and Human Rights Protection."

After reviewing many encyclicals, McLean concludes that the Church has two primary concerns in this area: (1) employees have a natural right to form and join employee associations to seek just improvements in their economic and working conditions; and (2) employees have an obligation to join only those organizations that will assist them in becoming better Christian working men and women. McLean concludes that only voluntary union membership is consistent with Catholic teaching, since only it leaves the ultimate moral decision in the hands of the affected employee.⁷

Other major encyclicals dealing with the Church's teachings on social justice and workers support McLean's conclusions.

In 1981, Pope John Paul II instructed the faithful on the importance of labor unions in the following words:

All these rights [of workers and society], together with the need for the workers themselves to secure them, give rise to yet another right: *the right of association*, that is to form associations for the purpose of defending the vital interests of those employed in the various professions. . . . The vital interests of the workers are to a certain extent common for all of them; at the same time however each type of work, each profession, has its own specific character which should find a particular reflection in these organizations.

. . . Obviously, this does not mean that only industrial workers can set up associations of this type. Representatives of every profession can use them to ensure their own rights. Thus there are unions of agricultural workers and of white-collar workers; there are also employers' associations. All, as has been said above, are further divided into groups or subgroups according to particular professional specializations.⁸

. . . [Unions] are indeed a mouthpiece for the struggle for social justice, for the just rights of working people in accordance with their individual professions. However, this struggle should be seen as a normal

⁷ Other Catholic scholars have found Catholic teaching to be supportive of the Right to Work principle. See, Rev. John Coogan, S.J., *Rome and the American Labor Union, Featuring The Right to Work vs. The Compulsory Union Shop*, Bellarmine School of Theology, reprinted and distributed by The National Right to Work Committee (1966). See also, Rev. Edward A. Keller, C.S.C., University of Notre Dame, *The Case for Right-to-Work Laws, A Defense of Voluntary Unionism*, The Heritage Foundation, Inc. (1956).

⁸ Note: the Church's concern extends to management as well as rank-and-file associations.

endeavor “for” the just good: . . . it *is not a struggle “against” others*. Even if in controversial questions the struggle takes on a character of opposition towards others, this is because it aims at the good of social justice, not for the sake of “struggle” or in order to eliminate the opponent. It is characteristic of work that it first and foremost unites people. . . .⁹

. . . Union demands cannot be turned into a kind of *group or class “egoism,”* although they can and should also aim at correcting – with a view to the common good of the whole of society – everything defective in the system of ownership of the means of production or in the way these are managed. . . .

. . . [T]he role of unions is not to “play politics” in the sense that the expression is commonly understood today. Unions do not have the character of political parties struggling for power; they should not be subjected to the decision of political parties or have too close links with them. In fact, in such a situation they easily lose contact with their specific role, which is to secure the just rights of workers within the framework of the common good of the whole of society; instead they become *an instrument used for other purposes*.¹⁰

. . . [B]efore all else, we must keep in mind that which conditions the specific dignity of the subject of the work. The activity of union organizations opens up many possibilities in this respect, including their *efforts to instruct and educate* the workers and to *foster their self-education*. . . . It is always to be hoped that, thanks to the work of their unions, workers will not only *have* more, but above all *be* more: in other words, that they will realize their humanity more fully in every respect.

[The strike] *must not be abused*; it must not be abused especially for “political” purposes. Furthermore it must never be forgotten that, when essential community services are in question, they must in every case be ensured, if necessary by means of appropriate legislation. Abuse of the strike weapon can lead to the paralysis of the whole of socioeconomic life,

⁹ Note the emphasis on what is “just.”

¹⁰ Compare this with the heavily politicized nature of American labor unions today. They are extremely involved politically, especially with the Democratic Party.

and this is contrary to the requirements of the common good of society which also corresponds to the properly understood nature of work itself.¹¹

Laborem Exercens, September 14, 1981, ¶ 20 (italicized emphasis in original; underlined emphasis added).

Laborem Exercens was issued on the ninetieth anniversary of *Rerum Novarum*, issued on May 15, 1891, by Pope Leo XIII. *Rerum Novarum* taught, *inter alia*:

[T]he following [duties] concern the poor and the workers: To perform entirely and conscientiously whatever work has been voluntarily and equitably agreed upon; not in any way to injure the property or to harm the person of employers; in protecting their own interests, to refrain from violence and never to engage in rioting; not to associate with vicious men who craftily hold out exaggerated hopes and make huge promises, a course usually ending in vain regrets and in the destruction of wealth. (¶ 30.)

[With respect to] rich men and employers: Workers are not to be treated as slaves; justice demands that the dignity of human personality be respected in them, ennobled as it has been through what we call the Christian character. If we hearken to natural reason and to Christian philosophy, gainful occupations are not a mark of shame to man, but rather of respect, as they provide him with an honorable means of supporting life. . . . Likewise it is enjoined that the religious interests and the spiritual well-being of the workers receive proper consideration. . . . (¶ 31.)

[P]rivate property ought to be safeguarded by the sovereign power of the State and through the bulwark of its laws. And especially, in view of such a great flaming up of passion at the present time, the masses ought to be kept within the bounds of their moral obligations. For while justice does not oppose our striving for better things, on the other hand, it does forbid anyone to take from another what is his and, in the name of a certain absurd equality, to seize forcibly the property of others; nor does the interest of the common good itself permit this. . . . (¶ 55.)

[T]here are many things which the power of the State should protect; and, first of all, the goods of his soul. For however good and desirable mortal life be, yet it is not the ultimate goal for which we are born, but a

¹¹ This justifies former President Reagan's decision to fire and replace striking air traffic controllers. It also justifies laws against strikes by police, fire fighters, and other public servants.

road only and a means for perfecting, through knowledge of truth and love of good, the life of the soul. . . . (§ 57.)¹²

. . . It is gratifying that societies . . . composed either of workers alone or of workers and employers together are being formed everywhere, and it is truly to be desired that they grow in number and in active vigor. . . . (§ 69, emphasis added.)¹³

[T]he number of associations of almost every possible kind, especially of associations of workers, is now far greater than ever before. . . . But the opinion is, and it is one confirmed by a good deal of evidence, that they are largely under the control of secret leaders and that these leaders apply principles which are in harmony with neither Christianity nor the welfare of States, and that, after having possession of all available work, they contrive that those who refuse to join with them will be forced by want to pay the penalty.¹⁴ Under these circumstances, workers who are Christians must choose one of two things; either to join associations in which it is greatly to be feared that there is danger to religion, or to form their own associations and unite their forces in such a way that they may be able manfully to free themselves from such unjust and intolerable oppression. Can they who refuse to place man's highest good in imminent jeopardy hesitate to affirm that the second course is by all means to be followed? (§ 74.)

. . . [I]f citizens have free right to associate, as in fact they do, they also must have the right freely to adopt the organization and the rules which they judge most appropriate to achieve their purpose. . . . In summary, let this be laid down as a general and constant law: Workers' associations ought to be so constituted and so governed as to furnish the most suitable and most convenient means to attain the object proposed, which consists in this, that the individual members of the association secure, so far as possible, an increase in the goods of body, of soul, and of prosperity. (§ 76.)

It is clear, however, that moral and religious perfection ought to be regarded as their principal goal, and that their social organization as such

¹² Do American labor unions seek what's best for workers' souls?

¹³ Again, note the concern for both managers and rank-and-file employees.

¹⁴ This paragraph, and this sentence in particular, provide strong support for the Right to Work principle.

ought above all to be directed completely by this goal. For otherwise they would degenerate in nature and would be little better than those associations in which no account is ordinarily taken of religion. Besides, what would it profit a worker to secure through an association an abundance of goods, if his soul through lack of its proper food should run the risk of perishing? “What doth it profit a man, if he gain the whole world, but suffer the loss of his own soul?” Matt. 16,26. . . . Therefore, having taken their principles from God, let those associations provide ample opportunity for religious instruction so that individual members may understand their duties to God, that they may well know what to believe, what to hope for, and what to do for eternal salvation, and that with special care they may be fortified against erroneous opinions and various forms of corruption. . . . (§ 77.)¹⁵

When the regulations of associations are founded upon religion, the way is easy toward establishing the mutual relations of the members so that peaceful living together and prosperity will result. . . . [L]et the rights and duties of employers be properly adjusted to the rights and duties of workers. . . . (§ 78.)¹⁶

In conclusion, the Catholic Church’s teaching on social justice in the workplace provides strong support for the Right to Work principle because the Right to Work principle preserves the individual’s – and in particular, the Catholic worker’s – right to make and implement moral decisions about those associations that deserve his support and those from which he should withhold his support.

¹⁵ Do American labor unions have “moral and religious perfection” as “their principal goal”? Are they “directed completely by this goal”?

¹⁶ Do American labor unions strive to ensure that “the rights and duties of employers [are] properly adjusted to the rights and duties of workers,” or do they engage in class warfare?